

MONTANA LEGISLATIVE HISTORY

Chapter 335 19 77

Bill H _____ S 83

Original bill & history ☒ c

H. Committee on Pub. Health Welfare & Safety S. Committee on Pub. Health Welfare & Safety

Hearing Date(s) 3/8 ☒ c

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1/25 ☒ c

Date Out 3/10 ☒ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 *Senate* BILL NO. *83*
 2 INTRODUCED BY *Rasmussen Goodwin Bergun*
 3 *Farbender* BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO CIVIL
 6 DEFENSE, DISASTER, AND EMERGENCY SERVICES; PROVIDING POWERS,
 7 DUTIES, AND AUTHORITY FOR PREPAREDNESS AND ASSISTANCE IN
 8 EMERGENCIES AND DISASTERS; AMENDING SECTIONS 77-2301,
 9 77-2302, 77-2303, 77-2304, 77-2306, 77-2309, 77-2310, AND
 10 77-2311, R.C.M. 1947; AND REPEALING SECTIONS 77-2305,
 11 77-2307, AND 77-2308, R.C.M. 1947."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Short title. This act may be cited as the
 15 "Montana Disaster Act of 1977".

16 Section 2. Section 77-2301, R.C.M. 1947, is amended to
 17 read as follows:

18 "77-2301. Policy and purpose. Because of the existing
 19 and increasing possibility of the occurrence of disasters or
 20 emergencies of unprecedented size and destructiveness
 21 resulting from enemy attack, sabotage, or other hostile
 22 action, and natural disasters, and in order to provide for
 23 prompt and timely reaction to an emergency or disaster, to
 24 insure that preparation of this state will be adequate to
 25 deal with such disasters or emergencies, and generally to

1 provide for the common defense and to protect the public
 2 peace, health, and safety and to preserve the lives and
 3 property of the people of this state, it is hereby found and
 4 declared to be necessary:

5 (1) to to authorize the creation of local or
 6 interjurisdictional organizations for civil-defense disaster
 7 and emergency services in the political subdivisions of this
 8 state; and

9 (2) to provide for the rendering of mutual aid among
 10 the political subdivisions of the state and with other
 11 states and with the federal government with respect to
 12 carrying out of civil defense functions to reduce
 13 vulnerability of people and communities of this state to
 14 damage, injury, and loss of life and property resulting from
 15 natural or man-made disasters;

16 (3) to prepare for prompt and efficient search,
 17 rescue, recovery, care, and treatment of persons lost,
 18 entrapped, victimized, or threatened by emergencies or
 19 disasters;

20 (4) to provide a setting conducive to the rapid and
 21 orderly start of restoration and rehabilitation of persons
 22 and property affected by disasters;

23 (5) to clarify and strengthen the roles of the
 24 governor, state agencies, and local governments in
 25 prevention of, preparation for, response to, and recovery

1 from emergencies and disasters:

2 (6) to authorize and provide for cooperation in
3 disaster prevention, preparedness, response, and recovery;

4 (7) to authorize and provide for coordination of
5 activities relating to disaster prevention, preparedness,
6 response, and recovery by agencies and officers of this
7 state and similar state-local, interstate, federal-state,
8 and foreign activities in which the state and its political
9 subdivisions may participate;

10 (8) to provide an emergency and disaster management
11 system embodying all aspects of emergency or disaster
12 prevention, preparedness, response, and recovery;

13 (9) to assist in prevention of disasters caused or
14 aggravated by inadequate planning for public and private
15 facilities and land use; and

16 (10) to supplement, without in any way limiting,
17 authority conferred by previous statutes of this state and
18 increase the capability of the state, local, and
19 interjurisdictional disaster and emergency services agencies
20 to perform disaster and emergency services."

21 Section 3. There is a new R.C.M. section that reads as
22 follows:

23 Limitations. Nothing in this chapter may be construed
24 to give any state, local, or interjurisdictional agency or
25 public official authority to:

1 (1) interfere with the course of conduct of a labor
2 dispute, except that actions otherwise authorized by this
3 act or other laws may be taken when necessary to forestall
4 or mitigate imminent or existing danger to public health or
5 safety;

6 (2) interfere with dissemination of news or comment on
7 public affairs; but any communications facility or
8 organization (including but not limited to radio and
9 television stations, wire services, and newspapers) may be
10 required to transmit or print public service messages
11 furnishing information or instructions in connection with an
12 emergency or disaster;

13 (3) affect the jurisdiction or responsibilities of
14 police forces, firefighting forces, units of the armed
15 forces of the United States, or of any personnel thereof,
16 when on active duty; but state, local, and
17 interjurisdictional disaster and emergency plans shall place
18 reliance upon the forces available for performance of
19 functions related to emergencies and disasters; or

20 (4) limit, modify, or abridge the authority of the
21 governor to proclaim martial law or exercise any other
22 powers vested in him under the constitution, statutes, or
23 common law of this state independent of or in conjunction
24 with any provisions of this act.

25 Section 4. Section 77-2302, R.C.M. 1947, is amended to

1 read as follows:

2 "77-2302. Definitions. As used in this chapter, the
3 term "~~civil defense~~" means ~~the preparation for and the~~
4 ~~carrying out of emergency functions, other than functions~~
5 ~~for which military forces or other federal agencies are~~
6 ~~primarily responsible to prevent, minimize, and repair~~
7 ~~injury and damage resulting from disasters caused by enemy~~
8 ~~attacks, sabotage, or other hostile actions and catastrophes~~
9 ~~of all types which shall endanger any community in the~~
10 ~~state or the lives or property of the inhabitants thereof,~~
11 ~~including storms, floods, explosions, earthquakes,~~
12 ~~epidemics, and fires. These functions include fire fighting~~
13 ~~services, police services, medical and health services,~~
14 ~~rescue, engineering, air raid warning services,~~
15 ~~communications, radiological, chemical, and other special~~
16 ~~weapons of defense, evacuation of persons from stricken~~
17 ~~areas, emergency welfare services (civilian war aid),~~
18 ~~emergency transportation, plant protection, temporary~~
19 ~~restoration of public utility services, and other functions~~
20 ~~related to civilian protection. The term "political~~
21 ~~subdivisions" means the counties, cities, towns, and villages~~
22 ~~in this state. The following definitions apply:~~

23 (1) "Civil defense" means the nuclear preparedness
24 functions and responsibilities of disaster and emergency
25 services.

1 (2) "Department" means the department of military
2 affairs.

3 (3) "Disaster" means the occurrence or imminent threat
4 of widespread or severe damage, injury, or loss of life or
5 property resulting from any natural or man-made cause,
6 including tornadoes, windstorms, snowstorms, wind-driven
7 water, high water, floods, wave action, earthquakes,
8 landslides, mudslides, volcanic action, fires, explosions,
9 or air or water contamination requiring emergency action to
10 avert danger or damage, blight, droughts, infestations,
11 riots, sabotage, hostile military or paramilitary action, or
12 accidents involving radiation byproducts or other hazardous
13 materials.

14 (4) "Disaster and emergency services" means the
15 prevention of, the preparation for, and the carrying out of
16 disaster and emergency functions and responsibilities, other
17 than those for which military forces or other state or
18 federal agencies are primarily responsible, to prevent,
19 prepare for, respond to, and recover from injury and damage
20 resulting from emergencies or disasters.

21 (5) "Division" means the division of disaster and
22 emergency services of the department of military affairs.

23 (6) "Emergency" means the imminent threat of a
24 disaster causing immediate peril to life or property which
25 timely action can avert or minimize.

1 (7) "Political subdivision" means any county, city,
 2 town, or other legally constituted unit of local government
 3 in this state.

4 (8) "Principal executive officer" means the mayor,
 5 chairman of the county commissioners, or other chief
 6 executive officer of a political subdivision.

7 (9) "Search and rescue" means the employment,
 8 coordination, and utilization of available resources and
 9 personnel in locating, relieving distress of, preserving
 10 life of, or removing survivors from the site of a hazard,
 11 emergency, or disaster to a place of safety in case of lost,
 12 stranded, entrapped, or injured persons.

13 (10) "Temporary housing" means unoccupied habitable
 14 dwellings, suitable rental housing, mobile homes, or other
 15 readily fabricated dwellings."

16 Section 5. Section 77-2303, R.C.M. 1947, is amended to
 17 read as follows:

18 "77-2303. Responsibility for ~~civil--defense disaster~~
 19 ~~and emergency services.~~ (a) The department of military
 20 ~~affairs, through the division of disaster and emergency~~
 21 ~~services,~~ is responsible to the governor for carrying out
 22 the ~~planning and~~ program for ~~civil-defense disaster and~~
 23 ~~emergency services~~ of this state. ~~The--department--shall~~
 24 ~~coordinate--the--activities--of--all--organizations--for--civil~~
 25 ~~defense--within--the--state--and--maintain--liaison--with--and~~

1 ~~cooperate--with--civil-defense-agencies-and-organizations-of~~
 2 ~~other-states-of-the-federal-government--and--Canada--and~~
 3 ~~have--any-additional-authority--duties--and--responsibilities~~
 4 ~~authorized-by-this-chapter--as--may--be--prescribed--by--the~~
 5 ~~governor.~~

6 ~~(b)--In--providing--assistance--under--this--chapter--state~~
 7 ~~agencies--shall--cooperate--to--the--fullest--extent--possible--with~~
 8 ~~each--other--and--with--local--governments--relief--agencies--and~~
 9 ~~the--American--National--Red--Cross--but--nothing--contained--in~~
 10 ~~this--chapter--limits--or--in--any--way--affects--the~~
 11 ~~responsibilities--of--the--American--National--Red--Cross--under~~
 12 ~~the--act--approved--January--5--1985--(33--State--559)--as~~
 13 ~~amended."~~

14 Section 6. Section 77-2304, R.C.M. 1947, is amended to
 15 read as follows:

16 "77-2304. ~~Civil-defense-duties~~ Duties of the governor.
 17 (1) The governor is responsible for carrying out this
 18 chapter. ~~The--governor--shall--utilize--the--services--and~~
 19 ~~facilities--of--the--existing--officers--and--agencies--of--the~~
 20 ~~state--and--all--officers--and--agencies--shall--cooperate--with~~
 21 ~~and--extend--their--services--and--facilities--to--the--governor--as~~
 22 ~~he--may--request--in--the--carrying--out--of--the--purposes--of--this~~
 23 ~~chapter.~~

24 (2) (a) A state of emergency shall be declared by
 25 executive order or proclamation of the governor when

1 necessary, even though a disaster has not occurred. The
 2 state of emergency shall continue until the governor
 3 declares a state of disaster or finds that the emergency has
 4 passed or has been dealt with to the extent that emergency
 5 conditions no longer exist and he terminates the state of
 6 emergency by executive order or proclamation.

7 (b) All executive orders or proclamations issued under
 8 this subsection shall indicate the nature of the emergency,
 9 the area threatened, and the conditions which have brought
 10 about the declaration or which make possible termination of
 11 the state of emergency.

12 (c) An executive order or proclamation of a state of
 13 emergency shall activate the emergency response and disaster
 14 preparation aspects of the state disaster and emergency plan
 15 and program applicable to the political subdivision or area
 16 and be authority for the deployment and use of any forces to
 17 which the plans apply and for the distribution and use of
 18 any supplies, equipment, and materials and facilities
 19 assembled, stockpiled, or arranged to be made available
 20 pursuant to this chapter or any other provision of law
 21 pertaining to disasters and disaster-related emergencies.

22 (d) A state of emergency may not continue for longer
 23 than 10 days unless renewed by the governor. However,
 24 termination of the state of emergency may not conclude
 25 disaster and emergency services required as a result of the

1 emergency.

2 (e) The legislature may terminate a state of emergency
 3 at any time by joint resolution. Thereupon, the governor
 4 shall terminate the state of emergency by executive order or
 5 proclamation. However, termination of the state of emergency
 6 may not conclude disaster and emergency services required as
 7 a result of the emergency.

8 (3) (a) A disaster shall be declared by executive
 9 order or proclamation of the governor if he finds a disaster
 10 has occurred or that the occurrence thereof is imminent. The
 11 state of disaster shall continue until the governor finds
 12 that the disaster or the imminent danger of disaster
 13 occurrence has passed or has been dealt with to the extent
 14 that disaster conditions or the imminent danger conditions
 15 thereof no longer exist and terminates the state of disaster
 16 by executive order or proclamation.

17 (b) All executive orders or proclamations issued under
 18 this subsection shall indicate the nature of the disaster,
 19 the area threatened, and the conditions which have brought
 20 about the declaration or which make possible termination of
 21 the state of disaster.

22 (c) An executive order or proclamation of a state of
 23 disaster shall activate the disaster response and recovery
 24 aspects of the state disaster and emergency plan and program
 25 applicable to the political subdivision or area and be

1 authority for the deployment and use of any forces to which
 2 the plans apply and for the distribution and use of any
 3 supplies, equipment, and materials and facilities assembled,
 4 stockpiled, or arranged to be made available pursuant to
 5 this chapter or any other provision of law pertaining to
 6 disasters and disaster-related emergencies.

7 (d) A state of disaster may not continue for longer
 8 than 30 days unless renewed by the governor. However,
 9 termination of the state of disaster may not conclude
 10 disaster and emergency services required as a result of the
 11 disaster.

12 (e) The legislature may terminate a state of disaster
 13 at any time by joint resolution. Thereupon, the governor
 14 shall terminate the state of disaster by executive order or
 15 proclamation. However, termination of the state of disaster
 16 may not conclude disaster and emergency services required as
 17 a result of the disaster.

18 (4) An executive order or proclamation issued under
 19 this section shall be disseminated promptly by means
 20 calculated to bring its contents to the attention of the
 21 general public. Unless the circumstances attendant upon the
 22 emergency or disaster prevent or impede it, the executive
 23 order or proclamation will be filed promptly with the
 24 division, the secretary of state, and clerk and recorders of
 25 the counties involved.

1 (5) During a state of emergency or disaster, the
 2 governor is commander-in-chief of the militia and of all
 3 other forces available for emergency or disaster duty. To
 4 the greatest extent possible, the governor shall delegate or
 5 assign command authority by prior arrangement embodied in
 6 the state disaster and emergency plan and program and
 7 appropriate executive orders, but nothing herein restricts
 8 his authority to do so by orders issued at the time of the
 9 emergency or disaster.

10 (6) In addition to any other powers conferred upon the
 11 governor by law, he may:

12 (a) suspend the provisions of any regulatory statute
 13 prescribing the procedures for conduct of state business or
 14 orders or rules of any state agency, if the strict
 15 compliance with the provisions of any statute, order, or
 16 rule would in any way prevent, hinder, or delay necessary
 17 action in coping with the emergency or disaster;

18 (b) transfer the direction, personnel, or function of
 19 state departments and agencies or units thereof for the
 20 purpose of performing or facilitating disaster and emergency
 21 services;

22 (c) subject to the restrictions of this act or other
 23 existing state laws, commandeer or utilize any private
 24 property if he finds this necessary to cope with the
 25 emergency or disaster;

(d) direct and compel the evacuation of all or part of the population from an emergency or disaster area within the state if he considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(e) prescribe routes, modes of transportation, and destinations in connection with relocation;

(f) control ingress and egress to and from an emergency or disaster area, the movement of persons within the area, and the occupancy of premises therein;

(g) suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, combustibles, or other materials determined to be detrimental;

(h) make provision for the availability and use of temporary housing; and

(i) utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the emergency or disaster."

Section 7. There is a new R.C.M. section that reads as follows:

Division of disaster and emergency services. (1) A division of disaster and emergency services is established in the department of military affairs. The division shall

have an administrator and other professional, technical, secretarial, and clerical employees as necessary for the performance of its functions.

(2) The division shall prepare and maintain a comprehensive plan and program for disaster and emergency services of this state. The plan and program shall be coordinated with the disaster and emergency plans and programs of the federal government, other states, political subdivisions, and Canada to the fullest extent possible. The state disaster and emergency plan and program may provide for:

(a) prevention and minimization of injury and damage caused by disaster;

(b) prompt and efficient response to an emergency or disaster;

(c) emergency relief;

(d) identification of areas particularly vulnerable to disasters;

(e) recommendations for preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

(f) organization of manpower and chains of command;

(g) coordination of federal, state, and local disaster and emergency activities; and

(h) other necessary matters.

1 (3) In preparing and maintaining the state disaster
2 and emergency plan and program, the division shall seek the
3 advice and assistance of local government, business, labor,
4 industry, agriculture, civic and volunteer organizations,
5 and community leaders. In advising local and
6 interjurisdictional agencies, the division shall encourage
7 them to seek advice from these sources.

8 (4) The division shall:

9 (a) coordinate the preparation of the plan and program
10 for disaster and emergency services with the political
11 subdivisions of this state;

12 (b) coordinate disaster and emergency prevention and
13 preparation activities of all departments, agencies, and
14 organizations within the state;

15 (c) advise and assist the political subdivisions of
16 this state in executing their disaster and emergency
17 services responsibilities;

18 (d) make recommendations on the formation of
19 interjurisdictional disaster and emergency services areas
20 when individual political subdivisions are unable to fully
21 and adequately mount an effective local program due to
22 limitations of funding, manpower, or other reasons;

23 (e) make surveys of industries, resources, and
24 facilities within the state, both public and private, as are
25 necessary to carry out the purposes of this chapter;

1 (f) periodically review local and interjurisdictional
2 plans and programs for disaster and emergency services;

3 (g) develop or assist in the development of mutual aid
4 plans and agreements between the federal government, other
5 states, and Canada and among the political subdivisions of
6 this state;

7 (h) determine the requirements of the state and its
8 political subdivisions for food, clothing, and other
9 necessities in the event of an emergency or disaster;

10 (i) plan for the procurement of food, clothing, other
11 necessities, supplies, medicines, materials, and equipment
12 that may be necessary in the event of an emergency or
13 disaster and, as funding is authorized, procure and
14 pre-position the same;

15 (j) plan and make arrangements for the availability
16 and use of any private facilities, services, and property
17 and, if necessary and if in fact used, provide for payment
18 for use under terms and conditions agreed upon;

19 (k) institute training and public information programs
20 and take all other preparatory steps, including the partial
21 or full mobilization of disaster and emergency services
22 organizations in advance of actual emergency or disaster, to
23 insure the availability of adequately trained and equipped
24 personnel in time of emergency or disaster;

25 (l) direct emergency response and disaster preparation

1 activities as authorized by the governor;

2 (m) direct disaster response and recovery activities
3 as authorized by the governor;

4 (n) prepare, for issuance by the governor, executive
5 orders or proclamations as necessary or appropriate in
6 coping with emergencies and disasters;

7 (o) maintain liaison with and cooperate with disaster
8 and emergency services agencies and organizations of the
9 federal government, other states, and Canada in achieving
10 any purpose of this chapter and in implementing programs for
11 disaster prevention, preparation, response, and recovery;
12 and

13 (p) have any additional authority, duties, and
14 responsibilities authorized by this act as may be prescribed
15 by the governor.

16 (5) In providing assistance under this act, state
17 departments and agencies shall cooperate to the fullest
18 extent possible with each other and with local governments
19 and relief agencies such as the American national red cross,
20 but nothing contained in this chapter lists or in any way
21 affects the responsibilities of the American national red
22 cross under the act approved January 5, 1905 (33 Stat. 559),
23 as amended.

24 Section 8. There is a new R.C.M. section that reads as
25 follows:

1 Local and interjurisdictional emergency and disaster
2 agencies and services. (1) Each political subdivision within
3 this state shall designate a local or interjurisdictional
4 agency responsible for emergency and disaster prevention and
5 preparedness and coordination of response and recovery.

6 (2) The local or interjurisdictional disaster and
7 emergency services agency shall receive assistance from the
8 division in emergency and disaster prevention, preparedness,
9 response, and recovery to the extent of the division's
10 authority and responsibility.

11 (3) Each political subdivision shall adhere to the
12 provisions of this act and the state disaster and emergency
13 plan and program regarding the structure and
14 responsibilities of the local or interjurisdictional
15 disaster and emergency service agencies and their
16 relationship to the division.

17 (4) The principal executive officer of each political
18 subdivision shall notify the division of the manner by which
19 the political subdivision is providing or securing emergency
20 and disaster planning and services, identify the person who
21 heads the agency from which planning and services are
22 obtained, and furnish additional information as the division
23 requires.

24 (5) Each local and interjurisdictional agency shall
25 prepare and keep current a local or interjurisdictional

1 disaster and emergency plan and program covering the area
2 for which that agency is responsible. This plan shall be in
3 accordance with and in support of the state disaster and
4 emergency plan and program.

5 (6) The local or interjurisdictional agency shall
6 prepare and distribute on behalf of the principal executive
7 officers, in written form, a clear and complete statement of
8 the emergency responsibilities of all local agencies and
9 officials and of the disaster and emergency chain of
10 command.

11 Section 9. There is a new R.C.M. section that reads as
12 follows:

13 Local emergency or disaster. (1) A local emergency
14 proclamation or disaster declaration may be issued only by
15 the principal executive officer of a political subdivision.

16 (2) An emergency proclamation may be issued by order
17 or resolution whenever the principal executive officer
18 determines there is an emergency.

19 (a) An emergency proclamation may not continue for
20 longer than 10 days except by consent of the governing body
21 of the political subdivision.

22 (b) An emergency proclamation may terminate with a
23 disaster declaration or when the principal executive officer
24 determines that the emergency no longer exists.

25 (3) A disaster declaration may be issued by order or

1 resolution whenever the principal executive officer
2 determines a disaster is occurring or has occurred.

3 (a) A disaster declaration may not continue for longer
4 than 30 days except by consent of the governing body of the
5 political subdivision.

6 (b) A disaster declaration may be terminated when the
7 principal executive officer determines that the disaster
8 conditions no longer exist.

9 (4) An order or resolution declaring or terminating a
10 state of emergency or disaster shall indicate the nature of
11 the emergency or disaster, the area threatened, the
12 conditions which have brought about the proclamation or
13 declaration or which make possible termination of the state
14 of emergency or disaster. Such orders or resolutions shall
15 be disseminated promptly by means calculated to bring its
16 contents to the attention of the general public and shall be
17 filed promptly with the division, the local or
18 interjurisdictional agency, and the agency charged with
19 recording the official records of the political subdivision.

20 (5) The effect of an emergency proclamation or a
21 disaster declaration is to activate applicable parts of the
22 local or interjurisdictional disaster and emergency plan and
23 program and to authorize the furnishing of aid and
24 assistance in accordance with such plans and programs.

25 Section 10. Section 77-2306, R.C.M. 1947, is amended

1 to read as follows:

2 "77-2306. ~~Mutual aid~~ Mutual aid arrangements. (1) The
3 ~~director of each local organization of civil defense may~~
4 ~~develop or cause to be developed~~ Political subdivisions
5 ~~shall be encouraged and assisted by the division to conclude~~
6 ~~mutual aid mutual aid~~ arrangements with other public and
7 private agencies within this state for reciprocal civil
8 defense aid and assistance in ~~case of disaster too great to~~
9 ~~be dealt with unassisted~~ copmg with emergencies and
10 ~~disasters. These arrangements shall be consistent with the~~
11 ~~state civil defense plan and program and in time of~~
12 ~~emergency each local organization for civil defense shall~~
13 ~~render assistance in accordance with the provisions of the~~
14 ~~mutual aid arrangements~~

15 (2) In reviewing disaster and emergency plans and
16 programs of political subdivisions, the division shall
17 consider whether they contain adequate provisions for the
18 reciprocal mutual aid.

19 ~~(2)(3). The director of each local organization for~~
20 ~~civil defense~~ Local and interjurisdictional disaster and
21 emergency agencies may assist in negotiation of reciprocal
22 ~~mutual aid mutual aid~~ agreements between the governor and
23 the adjoining states (including foreign states or provinces)
24 or political subdivisions thereof, and shall carry out
25 arrangements or any such agreements or any such agreement

1 relating to the local and political subdivision."

2 Section 11. There is a new R.C.M. section that reads
3 as follows:

4 Intergovernmental arrangements. (1) This state enacts
5 into law and enters into the interstate civil defense and
6 disaster compact with all states, as defined therein, which
7 states have enacted or shall hereafter enact the compact in
8 the form substantially contained in 77-1403.

9 (2) The governor may enter into the compact with any
10 state that does not border this state if he finds that joint
11 action with the state is desirable in meeting common
12 intergovernmental problems of emergency and disaster
13 planning, prevention, response, and recovery.

14 (3) Nothing in subsections (1) and (2) may be
15 construed to limit previous or future entry of this state
16 into the interstate civil defense and disaster compact.

17 (4) All interstate civil defense and disaster compacts
18 and other interstate agreements dealing with disaster and
19 emergency services shall be reviewed and made current at
20 intervals not to exceed 4 years.

21 (5) If a person holds a license, certificate, or other
22 permit issued by any state or political subdivision thereof
23 evidencing the meeting of qualifications for professional,
24 mechanical, or other skills, the person may render aid
25 involving that skill in this state to meet an emergency or

1 disaster and this state shall give due recognition to the
2 license, certificate, or other permit.

3 (6) When considered of mutual benefit, the governor
4 may, subject to limitations of law, enter into
5 intergovernmental arrangements with neighboring provinces of
6 Canada for the purpose of exchanging disaster and emergency
7 services.

8 Section 12. There is a new R.C.M. section that reads
9 as follows:

10 Communications. (1) The division shall coordinate
11 whatever means exist for rapid and efficient communications
12 in time of emergency or disaster.

13 (2) The division shall, in cooperation with the
14 division of communications, department of administration,
15 consider the desirability of supplementing communications
16 resources or of integrating them into a comprehensive state
17 or state-federal telecommunications or other communications
18 system or network.

19 (3) The division shall, in cooperation with the
20 division of communications and local political subdivisions,
21 evaluate the possibility of multipurpose use of
22 communications systems or networks for general state and
23 local governmental purposes.

24 (4) The division shall assist political subdivisions
25 in the orderly development of telecommunications systems

1 complementary to the state telecommunications system or
2 network.

3 Section 13. Section 77-2309, R.C.M. 1947, is amended
4 to read as follows:

5 "77-2309. Authority to accept services, gifts, grants,
6 and loans. Whenever the federal government or any agency or
7 officer thereof or any person, firm, or corporation shall
8 offer to the state, or through the state to any political
9 subdivision thereof, services, equipment, supplies,
10 materials, or funds by way of gift, grant, or loan for
11 purposes of ~~civil-defense~~ emergency or disaster services,
12 the state, acting through the governor, or the political
13 subdivision, acting through its executive officer or
14 governing body, may accept the offer and upon the acceptance
15 the governor of the state or executive officer or governing
16 body of the political subdivision may authorize any officer
17 of the state or of the political subdivision, as the case
18 may be, to receive the services, equipment, supplies,
19 materials, or funds on behalf of the state or such political
20 subdivision and subject to the terms of the offer and the
21 rules ~~and regulations~~, if any, of the agency making the
22 offer."

23 Section 14. Section 77-2310, R.C.M. 1947, is amended
24 to read as follows:

25 "77-2310. Political activity prohibited. An

1 organization for ~~civil--defense disaster and emergency~~
 2 ~~services~~ established under this chapter may not participate
 3 in any form of political activity, nor may it be employed
 4 directly or indirectly for political purposes."

5 Section 15. Section 77-2311, R.C.M. 1947, is amended
 6 to read as follows:

7 "77-2311. ~~Civil--defense Disaster and emergency~~
 8 ~~services~~ personnel. A person may not be employed or
 9 ~~associated in any capacity~~ in any ~~civil-defense disaster and~~
 10 ~~emergency services~~ organization established under this
 11 chapter who advocates a change by force or violence in the
 12 constitutional form of the government of the United States
 13 or in this state or the overthrow of any government in the
 14 United States by force or violence, or who has been
 15 convicted of or is under indictment or information charging
 16 any subversive act against the United States. Each person
 17 who is appointed to serve in an organization for ~~civil~~
 18 ~~defense disaster and emergency services~~ shall, before
 19 entering upon his duties, take an oath, in writing, before a
 20 person authorized to administer oaths in this state, which
 21 oath shall be substantially as follows:

22 "I, ~~do-solemnly~~ swear (or affirm) that I will
 23 support and defend ~~the~~ Ihe Constitution of the United States
 24 and ~~the~~ Ihe Constitution of the State of Montana, against
 25 all enemies, foreign and domestic; that I will bear true

1 faith and allegiance to the same; that I take this
 2 obligation freely, without any mental reservation or purpose
 3 of evasion; and that I will well and faithfully discharge
 4 the duties of the office upon ~~on~~ which I am about to enter.
 5 ~~And I do further swear (or affirm) that I do not--advocate~~
 6 ~~nor--am--I--a--member--of--any--political--party--or--organization~~
 7 ~~that--advocates--the--overthrow--of--the--government--of--the--United~~
 8 ~~States--or--of--this--state--by--force--or--violence;--and--that~~
 9 ~~during--such--time--as--I--am--a--member--of--the--Montana--civil~~
 10 ~~defense--agency--I--will--not--advocate--nor--become--a--member--of~~
 11 ~~any--political--party--or--organization--that--advocates--the~~
 12 ~~overthrow--of--the--government--of--the--United--States--or--of--this~~
 13 ~~state--by--force--or--violence. So help me, God."~~

14 Section 16. There is a new R.C.M. section that reads
 15 as follows:

16 Temporary housing for disaster victims -- site
 17 acquisition and preparation. (1) Whenever the governor has
 18 declared a state of emergency or state of disaster or the
 19 president has declared an emergency or a major disaster to
 20 exist in this state, the governor is authorized:

21 (a) to enter into purchase, lease, or other
 22 arrangements with any agency of the United States for
 23 temporary housing units to be occupied by emergency or
 24 disaster victims and to make such units available to any
 25 political subdivision of the state;

(b) to assist any political subdivision of this state which is the locus of temporary housing for emergency or disaster victims to acquire sites necessary for such temporary housing and to do all things required to prepare such site to receive and utilize temporary housing units by:

(i) advancing or lending funds available to the governor from any appropriation made by the legislature or from any other source;

(ii) "passing through" funds made available by any agency, public or private; or

(iii) becoming a copartner with the political subdivision for the execution and performance of any temporary housing project for emergency or disaster victims and for such purposes to pledge the credit of the state on such terms as he considers appropriate, having due regard for current debt transactions of the state;

(c) under such regulations as he shall prescribe, to temporarily suspend or modify for not to exceed 60 days any public health, safety, zoning, transportation (within or across the state), or other requirement of law or regulation within this state when by proclamation he declares such suspension or modification essential to provide temporary housing for emergency or disaster victims.

(2) Any political subdivision of this state is expressly authorized to acquire, temporarily or permanently,

by purchase, lease, or otherwise, sites required for installation of temporary housing units for emergency or disaster victims and to enter into whatever arrangements, including purchase of temporary housing units and payment of transportation charges, which are necessary to prepare or equip such sites to utilize the housing units.

(3) Nothing contained in this chapter shall be construed to limit the governor's authority to apply for, administer, and expend any grants, gifts, or payments in aid of emergency or disaster prevention, preparedness, response, or recovery.

Section 17. There is a new R.C.M. section that reads as follows:

Community disaster loans. Whenever, at the request of the governor, the president has declared a major disaster to exist in this state, the governor is authorized:

(1) upon his determination that a political subdivision of the state will suffer a substantial loss of tax and other revenues from an emergency or disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the federal government, on behalf of the political subdivision, for a loan and to receive and disburse the proceeds of any approved loan to any applicant political subdivision;

(2) to determine the amount needed by any applicant

1 political subdivision to restore or resume its governmental
 2 functions and to certify the same to the federal government.
 3 However, no application amount may exceed 25% of the annual
 4 operating budget of the applicant for the fiscal year in
 5 which the emergency or disaster occurs.

6 (3) to recommend to the federal government, based upon
 7 his review, the cancellation of all or any part of repayment
 8 when, in the first 3 full fiscal years following the
 9 emergency or disaster, the revenues of the political
 10 subdivision are insufficient to meet its operating expenses,
 11 including additional emergency- or disaster-related expenses
 12 of a political subdivision operation character.

13 Section 18. There is a new R.C.M. section that reads
 14 as follows:

15 Debris and wreckage removal in emergencies or
 16 disasters. (1) Whenever the governor has declared a state of
 17 emergency or state of disaster to exist under the laws of
 18 this state or the president, at the request of the governor,
 19 has declared a major disaster or emergency to exist in this
 20 state, the governor is authorized:

21 (a) notwithstanding any other provision of law,
 22 through the use of state departments or agencies or the use
 23 of any of the state's instrumentalities, to clear or remove,
 24 from publicly or privately owned land or water, debris and
 25 wreckage which may threaten public health or safety or

1 public or private property in any state of emergency or
 2 state of disaster declared by the governor or major disaster
 3 as declared by the president;

4 (b) to accept funds from the federal government and
 5 utilize such funds to make grants to any political
 6 subdivision for the purpose of removing debris or wreckage
 7 from publicly or privately owned land or water.

8 (2) (a) Authority under this section shall not be
 9 exercised unless the affected political subdivision,
 10 corporation, organization, or individual shall first present
 11 an unconditional authorization for removal of such debris or
 12 wreckage from public and private property and, in the case
 13 of removal of debris or wreckage from private property,
 14 shall first agree to indemnify the state government against
 15 any claim arising from such removal.

16 (b) Whenever the governor provides for clearance of
 17 debris or wreckage pursuant to subsection (1)(a) or (1)(b),
 18 employees of the designated state agencies or individuals
 19 appointed by the state are authorized to enter upon private
 20 land or waters and perform any tasks necessary to the
 21 removal or clearance operation.

22 Section 19. There is a new R.C.M. section that reads
 23 as follows:

24 Identification. Disaster and emergency services
 25 organizations and personnel may continue to identify

1 themselves by the use of the civil defense symbol.

2 Section 20. Severability. If a part of this act is
3 invalid, all valid parts that are severable from the invalid
4 part remain in effect. If a part of this act is invalid in
5 one or more of its applications, the part remains in effect
6 in all valid applications that are severable from the
7 invalid applications.

8 Section 21. Repealer. Sections 77-2305, 77-2307, and
9 77-2308, R.C.M. 1947, are repealed.

10 Section 22. Effective date. This act is effective on
11 its passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 67-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 13, , 19 77 , there is hereby submitted a Fiscal Note for Senate Bill 83 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 83 is the "Montana Disaster Act of 1977" relating to Civil Defense, emergency, and disaster services, and providing powers and duties.

ASSUMPTIONS:

The action of this bill essentially defines and clarifies duties already being performed by the Civil Defense Agency.

FISCAL IMPACT:

None.

Richard L. Drury
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-17-77

PUBLIC HEALTH WELFARE & SAFETY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 331	TO ALLOW AN OPTICIAN TO PERFORM MECHANICAL WORK ON AN OPHTHALMIC LENS ORDERED BY A REGISTERED OPTOMETRIST, REGARDLESS OF WHO EMPLOYS THE OPTICIAN.	2/18/77	Sen. Lensink	3/10/77	BE CONCURRED IN AS AMENDED	3/17/77
HJR 73	CENSURING THEATER OWNERS WHO DISPLAY OFFENSIVE PREVIEWS WHEN MINORS ARE PERMITTED TO ATTEND THE THEN-FEATURED MOTION PICTURE..	2/21/77	Menahan (COMMITTEE BILL)	2/22/77	DO PASS	2/22/77
SB 269	TO GIVE THE STATE PRIMARY ENFORCEMENT RESPONSIBILITY UNDER THE FEDERAL SAFE DRINKING WATER ACT...	3/2/77	Sen. Blaylock by request	3/10/77	BE CONCURRED IN AS AMENDED	3/10/77
SB 399	REDEFINING CHIROPRACTIC & PROVIDING THAT NO MEMBER OF THE BOARD MAY BE APPOINTED FOR MORE THAN TWO CONSECUTIVE TERMS...	3/2/77	Sen. Boylan, by request	3/22/77	BE CONCURRED IN AS AMENDED	3/24/77
SB 83	RELATING TO CIVIL DEFENSE, DISASTER, & EMERGENCY SERVICES; PROVIDING POWERS, DUTIES & AUTHORITY FOR PREPAREDNESS & ASSISTANCE IN EMERGENCIES & DISASTERS..	3/3/77	Sen. Rasmussen	3/8/77	BE CONCURRED IN AS AMENDED	3/10/77
SB 221	TO REPEAL R.C.M. SECTIONS PROVIDING FOR LICENSURE OF RADIOLOGIC TECHNICIANS & REPEALING SEC. WHICH PROVIDES FOR THE BD. OF RAD. TECHNOLOGISTS.	3/3/77	Sen. Etchart			

March 8, 1977

Richards, Montana Medical Assoc., spoke next. The MMA opposes this measure basically on the basis that the membership feels that there are many rules, regulations and laws protecting the consumer. This resolution could open some problems for the patients.

Questions were then asked. Rep. Kenny asked Mr. Richards whether an acupuncturist had to be a physician according to the Board's requirements, and it was confirmed that he did not have to be. Dr. Malee stated that a basic science test was taken by acupuncturists, and doctors took a medical test. Dr. Tsay, even though he is a physician also, would have to get referrals, because he is not licensed to practice medicine in Montana. Rep. Lynch then addressed Dr. Malee. He asked whether some doctors were not refusing to refer patients. Dr. Malee replied that many doctors did not believe in acupuncture and did not care to refer their patients. Rep. Lynch commented that from the consumer's point of view, these patients are being charged for doctors visits and all they are trying to do is get a referral. Rep. Lynch then asked Dr. Malee whether his organization was unanimous in their opposition to the resolution and it was admitted that there was a split in the MMA. Rep. Feda said that in light of the Board of Examiners' statement that they had not intended the rule to be restrictive and the fact that it had in fact turned out to be so, why then were they opposed to the resolution. Dr. Malee stressed the consumer protection aspect of the problem. Rep. Holmes suggested setting up a procedure where the patient would contact the Board of Medical Examiners and receive a report on the quality of the various acupuncturists. Dr. Malee stressed the importance of a diagnosis of the patient's condition. It was brought up that malpractice insurance costs less for the acupuncturist. If there were a lawsuit, Dr. Malee supposed that both the M.D. and the acupuncturist would be named. Under the proposed set-up, only the acupuncturist would be named. Rep. Kimble drew a comparison between acupuncturists and chiropractors and optometrists.

Senator Murray then closed. What we have here is a really simple problem which is, are we going to be able to determine if acupuncture could be an alternative, or is an M.D.? Several of his friends from Missoula were unable to receive referrals. The hearing was closed.

SENATE BILL 83, sponsored by Senator Rasmussen, was then heard. He distributed a handout entitled "MONTANA DISASTER ACT OF 1977". In 1974 Congress passed the Disaster Relief Act. The purposes of this bill are patterned after it. The main purpose of the bill is to bring Montana laws up to date, and to clarify them by stating the duties and roles of the state agencies and public officials more specifically. The bill will bring about an orderly and continuing means of

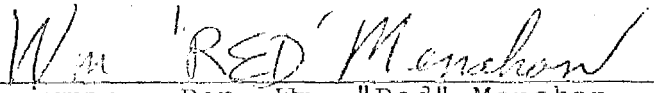
March 8, 1977

assistance for those who need it in a disaster. The bill does not expand the powers of the governor, any public office, or state agency. The other key to the bill is that it provides a mechanism by which assistance begins at the local level and state assistance is provided if necessary. This mechanism is triggered when an emergency or disaster situation has occurred, as defined in Section 4. The intent of the bill is to improve the services to the state. It will not increase the cost of providing these services. Mr. Robert Lohn then spoke, on behalf of the governor. He suggested three possible amendments, which would restore language originally in the bill, which had been stricken in the Senate. Following are the amendments: (1) Page 12, beginning with subsection (6), reinsert all of the material on lines 11 through 18. (2) On page 13, reinsert subsections (d) and (f). The governor's office probably would have these powers anyway in the case of a disaster or an emergency, but these subsections would spell that out. There was some concern in the Senate that these powers might allow a potential "dictatorship", but he stressed that the powers could only be exercised in case of emergency or disaster.

There were no opponents to SB 83. The sponsor closed. He concurred in the amendments. Questions were then asked.

It was announced that executive action on the above bills would be taken on Thursday, March 10, as the House Appropriations Committee was going to hear Senator Towe's SJR 15 at that time, and that committee did not want to be influenced by this committee's actions.

The meeting was adjourned.


Chairman - Rep. Wm. "Red" Menahan

Secretary

March 10, 1977

certification rather than a licensure, also. The Senate amended the bill to remove the civil penalty clause. Mr. Clarkson suggested to remove Section 69-4908 from the statutes, also, because it created a duplication. The committee attorney, Mr. Pyfer, concurred in this suggestion. The hearing was closed.

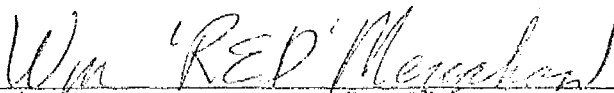
The committee then went into executive session.

SENATE BILL 83 was acted on. The amendments which had been submitted by the governor's office were discussed. Rep. Porter then moved acceptance of the amendments; motion carried with Reps. Stobie, Feda and Wyrick opposed. Rep. Porter then moved that SB 83 BE CONCURRED IN AS AMENDED; Rep. Gunderson seconded the motion. Motion carried with Rep. Stobie opposed. Rep. Porter agreed to carry the bill on the floor.

SENATE BILL 331 was then acted on. Rep. Lynch moved and Rep. Cooney seconded that the bill BE CONCURRED IN. Mr. Pyfer then commented. Everything in the original bill was stricken, following the enacting clause, in the Senate. The original bill only struck the last part of an entire section of the law. There are some problems concerning the entire matter, as a result of the Senate's actions. Rep. Lynch then moved to defer action on this bill. Motion carried.

SENATE BILL 269 was considered. Rep. Feda moved and Rep. Lynch seconded to amend the bill by striking Section 69-4908 in its entirety, and AS SO AMENDED BE CONCURRED IN. Motion carried unanimously. Rep. Metcalf agreed to carry this bill.

The meeting was adjourned.


Chairman - Rep. Wm. "Red" Menahan

Secretary

45th

LEGISLATIVE SESSION

COMMITTEE ON SENATE PUBLIC HEALTH, WELFARE AND SAFETY

SENATE BILL NO.	ENTERED COMM. 1977	DATE CONSIDERED 1977	OUT OF COMM. 1977	DO PASS DATE 1977	DO NOT PASS DATE 1977	DO PASS AS AMEND. DATE 1977	BE CON- CURRED IN DATE 1977	BE CONC. IN AS AMENDED DATE 1977	BE NOT CON- CURRED IN DATE 1977
22	Jan. 3	Jan. 18	Jan. 20			Jan. 20			
29	" 3	" 11	" 12	Jan. 12					
76	" 12	did not	tabled	(another bill addressed same issue)					
77	" 12	" "	"	"	"	" "	"		
83	" 12	Jan. 20	Jan. 25			Jan. 25			
105	" 14	" 22	" 25			Jan. 25			
154	" 20	" 27	Feb. 3	Feb. 3					
157	" 20	" 27	" "			Feb. 3			
217	" 22	" 29	" "			" "			
221	" 22	Feb. 5	" 22			WITHOUT RECOMMENDATION			
244	Feb. 3	Feb. 12	Feb. 12		Feb. 12				
246	Jan. 24	Feb. 1	tabled	(another bill addressed same issue)					
269	" 25	" "	Feb. 17	Feb. 17					
273	" 25	Feb. 3	tabled	(substitute bill SB443 instead)					
310	" 27	----	Feb. 5	(to Local Government)					
329	Feb. 9	Feb. 15	Feb. 19	Feb. 19					

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING .

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

January 20, 1977

The fifth meeting of the Committee of Public Health, Welfare and Safety convened at 11:00 A.M., January 20, 1977, in Room 405 of the State Capitol Building, Helena, Montana.

ROLL CALL: All members were present excepting Senator Robert Lee, who was excused for this day's meeting.

CONSIDERATION OF SENATE BILL NO. 83: This bill, "Montana Disaster Act of 1977", sponsored by Senator Rasmussen at the request of the Department of Military Affairs, was presented to the Committee. The Senator explained that the basic concept of the bill was to update, clarify and define emergency functions of the State, and to conform with PL93-288, the Disaster Relief Act of 1974 and other federal laws.

Chairman Stephens then asked for witnesses. The following persons testified:

Richard Gillespie, Civil Defense Division, D.M.A. (support)
C. L. Gilbertson, Civil Defense Division, D.M.A. (support)
William Murray, Civil Defense Division. (support)
Lloyd Meyer, Civil Defense Division. (support)

Richard (Fritz) Gillespie, who drafted the bill, called the Committee's attention to the Civil Defense handout (see attached Exhibit "A"). He reiterated that the main purpose of the bill would be to modernize and clarify the law. By so doing, Gillespie said it would make it easier for Montana to receive federal disaster assistance, if needed. It would also make it easier to react to a disaster. The bill gives specific authorization for actions that are implied in existing laws.

Questions from the Committee members to the above-named witnesses followed.

Senator Norman questioned the Civil Defense men on the flood problem in the State last year, saying that the State Legislators were not in a position of being able to okay the funds that were being sought.

Senator Norman asked if this bill would help individuals -- the answer was that it would not specifically help individuals, it would help in the restoration of public facilities, generally. However, Civil Defense workers can help individuals indirectly.

January 20, 1977

Senator Stephens asked whether there would be additional FTEs should this bill be passed. The answer was - no additional FTEs anticipated. The bill provides for no additional duties over what is presently being done. Senator Stephens mentioned that the Interim Finance Committee, at one of their meetings, denied a grant of \$247,125. He asked if this bill would put additional people on the State payroll and the answer was negative.

It was noted also by the Chairman that this bill carries a fiscal note that estimates that the bill would have no fiscal impact. The Civil Defense witnesses explained that SB 83 will not increase State expenditure -- the authorized expenditure level is already set and will not be changed. Section 75-7902 provides that the Governor may spend up to \$750,000 of State funds on an emergency or disaster.

Senators Himsl, Rasmussen, Watt and Olson questioned the Civil Defense witnesses at length concerning different section and lines in the bill. Specifically, definition of the term "political subdivision" and "chief executive officer" of that subdivision; search and rescue duties; encouragement for volunteer groups such as Salvation Army, Red Cross, etc.; the County Commissioners' role in determination of who is the prime mover in emergency situations; why a time frame is necessary in the designation of an emergency or disaster in the State; why an incident period has to be stated.

In summary, the points stressed were those reasons relating to clarification, defining and updating the present laws, through SB 83.

There being no further questions from the Committee members, the hearing was concluded on SB 83. No action was taken on the bill.

ACTION ON SENATE BILL 22: Senator Stephens, calling the Committee's attention to the typed, proposed amendments on SB 22, asked what the Committee's pleasure was on the amendments.

The sponsor, Senator Watt, made a motion to amend SB 22 to allow for two members from the public, in addition to the five mortician members (see Exhibit "B"). Senator Rasmussen made a substitute motion to amend SB 22 as recommended by the Montana Funeral Directors Association (see Exhibit "C").

Substitute motion carried (see roll call vote "1").

Senator Watt then moved that SB 22 be given a DO PASS, AS AMENDED. Committee recommendation (see roll call vote "2"). Motion carried.

EXHIBIT "A"

PROPOSED
STANDING COMMITTEE REPORT

Prepared by
Civil Defense Division
Department of Military Affairs

January 20, 1977

Mr. President McComber:

We, your committee on PUBLIC HEALTH, having had under consideration Senate Bill No. 83 entitled "AN ACT RELATING TO CIVIL DEFENSE AND DISASTER AND EMERGENCY SERVICES PROVIDING POWERS, DUTIES AND AUTHORITY FOR PREPAREDNESS AND ASSISTANCE IN EMERGENCIES AND DISASTERS; AMENDING SECTIONS 77-2301, 77-2302, 77-2303, 77-2304, 77-2305, 77-2309, 77-2310 And 77-2311, R.C.M. 1947, AND REPEALING SECTIONS 77-2305, 77-2307 and 77-2308, R.C.M. 1947", respectfully report as follows: that Senate Bill No. 83, first reading (white), be amended as follows:

Amend page 21, section 10, line 25.

Following: "arrangements"

Strike: "or"

Insert: "of"

Following: "agreements"

Strike: "or any such agreement"

January 22, 1977

compared to those doctors who did not go back to school.

Senator Stephens addressed Senator Rasmussen: Mr. Loendorf proposed an amendment - would your association reject the concept of the Board of Medical Examiners entering into this? Rasmussen's reply was: Yes, since there is a state board which oversees them now.

Senator Rasmussen then gave his closing statement, reiterating the points previously brought out by the proponents of the bill and ending with details on court cases involving the legality of restricting these drugs to opthamologists, the fact that 17 states have enacted legislation of this type, the armed forces can use the drugs as outlined, and mentioned that of the 56 counties in Montana, opthamologists are only in 11 -- making the point that optometrists are the first line of defense against blindness in the State.

The Chairman then indicated to the Committee and visitors that the testimony was concluded on SB 105. NO ACTION was taken - Senator Stephens said the bill will be considered for action January 25.

ACTION ON SENATE BILL 83: No action was taken in order to allow Senator Rasmussen to prepare appropriate amendment.

ANNOUNCEMENTS: Chairman Stephens set January 27 as the hearing date for two bills: SB 154 and SB 157. SJR 8 will be heard Tuesday, January 25.

Mr. John Bartlett, head of the Montana Medical Foundation, extended to the Committee, via Chairman Stephens, a standing invitation to examine their Helena facilities.

ADJOURNMENT: With no further business being discussed, the meeting was adjourned at 12:45 P.M.



STAN STEPHENS, Chairman

R O L L C A L L

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

45th LEGISLATIVE SESSION - 1977

DATE: 1/22/77

[illegible]

Each day, attach to minutes.

January 25, 1977

Chairman Stephens called for questions from the Committee. Senator Rasmussen: Is this common in most states, you can go to an acupuncturist without a prescription? Dr. Tsay: Yes. Senator Olson to Senator Murray: Do you have a copy of the title of the bill? It does say 60 days? Answer: Yes. Senator Stephens to Dr. Tsay: Do you find that there are numerous times when patients come to you for acupuncture treatment and after an examination, you refer the patient to another doctor? Dr. Tsay: Yes.

With no further questions or discussion on SJR8, Senator Stephens concluded the hearing on SJR8.

ACTION ON SB83: Chairman Stephens brought SB83 before the Committee for consideration and action.

Mr. Gillespie, Civil Defense Division, D.M.A., who testified January 20 in favor of SB83, presented the Committee with two proposed amendments which would give the same results (see hand-outs, Exhibits "C" and "D"). Gillespie explained that certain members of labor, Don Judge of the AFL-CIO for one, approached him following the meeting January 20, requesting an amendment (page 4, section 3, lines 1-5). Labor was afraid this would be a strike-breaking provision. Gillespie said it was not the intent of the new language to make it such a provision.

Several questions from the Committee to Mr. Gillespie followed. Senator Roberts asked what the new language would do to the Governor's power where there is a labor dispute or in cases of emergency or disaster; Senator Rasmussen asked if the Civil Defense is completely comfortable with the new language - Mr. Gillespie replied in the affirmative.

With no further discussion, Chairman Stephens asked Senator Rasmussen if he wished to move one or the other of the amendments. Senator Rasmussen: I will decline to take action on this. I would like to leave SB83 as it is now.

Senator Lee: I like the language in the amendment. I have a little trouble with the language as it is now - "of" should be "or". To which Senator Stephens asked Lee: Would you be satisfied with an amendment that simply changed the word "of" to "or"?

Senator Rasmussen, sponsor, then moved SB83 AS AMENDED, DO PASS. Motion carried unanimously.

ACTION ON SENATE BILL 105: Senator Rasmussen presented hand-out (see Exhibit "E") of proposed amendments, explaining these amendments to the Committee.

Senator Rasmussen moved amendments: motion carried unanimously.

R O L L C A L L

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

45th LEGISLATIVE SESSION - 1977

DATE: 1/25/77

[illegible]

Each day, attach to minutes.

E X H I B I T "C"

SUGGESTIONS FOR PROVISIONS
of
STANDING COMMITTEE REPORT

Submitted by
Civil Defense Division
Department of Military Affairs

January 21, 1977

Mr. President McComber:

We, your committee on PUBLIC HEALTH, having had under consideration Senate Bill No. 83 entitled "AN ACT RELATING TO CIVIL DEFENSE AND DISASTER AND EMERGENCY SERVICES PROVIDING POWERS, DUTIES AND AUTHORITY FOR PREPAREDNESS AND ASSISTANCE IN EMERGENCIES AND DISASTERS; AMENDING SECTIONS 77-2301, 77-2302, 77-2303, 77-2304, 77-2306, 77-2309, 77-2310 And 77-2311, R.C.M. 1947, AND REPEALING SECTIONS 77-2305, 77-2307 and 77-2308, R.C.M. 1947", respectfully report as follows: that Senate Bill No. 83, first reading (white), be amended as follows:

1. Amend page 4, section 3(1), line 1.

Following: "course"

Strike: "of"

Insert: "or"

2. Amend page 4, section 3(1), line 3.

Strike: "act or other laws"

Insert: "chapter"

Following: "taken"

Strike: "when necessary"

Insert: "during an emergency or disaster"

3. Amend page 4, section 3(1), line 5.

Following: "safety"

Strike: ";

Insert: "when a labor dispute not causing the emergency or

E X H I B I T "D"

SUGGESTIONS FOR PROVISIONS

of

STANDING COMMITTEE REPORT

Submitted by

Civil Defense Division

Department of Military Affairs

January 21, 1977

Mr. President McComber:

We, your committee on PUBLIC HEALTH, having had under consideration Senate Bill No. 83 entitled "AN ACT RELATING TO CIVIL DEFENSE AND DISASTER AND EMERGENCY SERVICES PROVIDING POWERS, DUTIES AND AUTHORITY FOR PREPAREDNESS AND ASSISTANCE IN EMERGENCIES AND DISASTERS; AMENDING SECTIONS 77-2301, 77-2302, 77-2303, 77-2304, 77-2306, 77-2309, 77-2310 And 77-2311, R.C.M. 1947, AND REPEALING SECTIONS 77-2305, 77-2307 and 77-2308, R.C.M. 1947", respectfully report as follows: that Senate Bill No. 83, first reading (white), be amended as follows:

1. Amend page 4, section 3(1), line 1 through line 5.

Strike: Line 1 through line 5 on page 4 in their entirety.

Insert: "(1) interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter may be taken during an emergency or disaster to forestall or mitigate imminent or existing danger to public health or safety when a labor dispute not causing the emergency or disaster can increase the danger;"

2. Amend page 21, section 10, line 25.

Following: "arrangements"

Strike: "or"

Insert: "of"

Following: "agreements"

Strike: "or any such agreement"

DATE 1/25COMMITTEE ON Public HealthBILL NO. SJR8SB83 orSB105

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppos
AT Meyer	Anti Defense	✓	
Robert C Tray	SJR	✓	
Chas. M. Tray	SJR	✓	
Collette M. Dean		✓	
Edwin Heiber		✓	
Rep. A. Ryan			
Mrs. J. C. Spack	Optometrists	✓	
Laurence O. Spack	Optometrists	✓	
Mrs. M. J. Spack	Optometrists	✓	
James R. Spack	"	✓	
Mary Menger	Corall College		
Janet Stutts	" "		
Mrs. M. J. Spack	" "		
Theresa Anderson	Adena	✓	
Frank T. Edwards	Corall College		
Jimmy Younger	Ophthalmologists		✓
Marilyn Spack	myself	?	?

SENATE BILL NO. 83

INTRODUCED BY RASMUSSEN, GOODOVER, BERGREN, PASBENDER
BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO CIVIL
DEFENSE, DISASTER, AND EMERGENCY SERVICES; PROVIDING POWERS,
DUTIES, AND AUTHORITY FOR PREPAREDNESS AND ASSISTANCE IN
EMERGENCIES AND DISASTERS; AMENDING SECTIONS 77-2301,
77-2302, 77-2303, 77-2304, 77-2306, 77-2309, 77-2310, AND
77-2311, R.C.M. 1947; AND REPEALING SECTIONS 77-2305, ~~AND~~
77-2307, ~~AND 77-2308, R.C.M. 1947; AND PROVIDING AN~~
IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This act may be cited as the
"Montana Disaster Act of 1977".

Section 2. Section 77-2301, R.C.M. 1947, is amended to
read as follows:

"77-2301. Policy and purpose. Because of the existing
and increasing possibility of the occurrence of disasters or
emergencies of unprecedented size and destructiveness
resulting from enemy attack, sabotage, or other hostile
action, and natural disasters, and in order to provide for
prompt and timely reaction to an emergency or disaster, to
insure that preparation of this state will be adequate to

deal with such disasters or emergencies, and generally to
provide for the common defense and to protect the public
peace, health, and safety and to preserve the lives and
property of the people of this state, it is hereby found and
declared to be necessary:

(1) ~~To~~ to authorize the creation of local or
interjurisdictional organizations for civil-defense disaster
and emergency services in the political subdivisions of this
state; and

(2) ~~To provide for the rendering of mutual aid among~~
~~the political subdivisions of the state, and with other~~
~~states, and with the federal government with respect to~~
~~carrying out of civil defense functions, to reduce~~
vulnerability of people and communities of this state to
damage, injury, and loss of life and property resulting from
natural or man-made disasters;

(3) to prepare for prompt and efficient search,
rescue, recovery, care, and treatment of persons lost,
entrapped, victimized, or threatened by emergencies or
disasters;

(4) to provide a setting conducive to the rapid and
orderly start of restoration and rehabilitation of persons
and property affected by disasters;

(5) to clarify and strengthen the roles of the
governor, state agencies, and local governments in

REFERENCE BILL

1 prevention of, preparation for, response to, and recovery
2 from emergencies and disasters:

3 (6) to authorize and provide for cooperation in
4 disaster prevention, preparedness, response, and recovery:

5 (7) to authorize and provide for coordination of
6 activities relating to disaster prevention, preparedness,
7 response, and recovery by agencies and officers of this
8 state and similar state-local, interstate, federal-state,
9 and foreign activities in which the state and its political
10 subdivisions may participate:

11 (8) to provide an emergency and disaster management
12 system embodying all aspects of emergency or disaster
13 prevention, preparedness, response, and recovery:

14 (9) to assist in prevention of disasters caused or
15 aggravated by inadequate planning for public and private
16 facilities and land use; and

17 (10) to supplement, without in any way limiting,
18 authority conferred by previous statutes of this state and
19 increase the capability of the state, local, and
20 interjurisdictional disaster and emergency services agencies
21 to perform disaster and emergency services."

22 Section 3. There is a new E.C.M. section that reads as
23 follows:

24 Limitations. Nothing in this chapter may be construed
25 to give any state, local, or interjurisdictional agency or

1 public official authority to:

2 (1) interfere with the course of ~~of~~ or conduct of a labor
3 dispute, except that actions otherwise authorized by this
4 act or other laws may be taken when necessary to forestall
5 or mitigate imminent or existing danger to public health or
6 safety;

7 (2) interfere with dissemination of news or comment on
8 public affairs; but any communications facility or
9 organization (including but not limited to radio and
10 television stations, wire services, and newspapers) may be
11 required to transmit or print public service messages
12 furnishing information or instructions in connection with an
13 emergency or disaster;

14 (3) affect the jurisdiction or responsibilities of
15 police forces, firefighting forces, units of the armed
16 forces of the United States, or of any personnel thereof,
17 when on active duty; but state, local, and
18 interjurisdictional disaster and emergency plans shall place
19 reliance upon the forces available for performance of
20 functions related to emergencies and disasters; or

21 (4) limit, modify, or abridge the authority of the
22 governor to proclaim martial law or exercise any other
23 powers vested in him under the constitution, statutes, or
24 common law of this state independent of or in conjunction
25 with any provisions of this act.

Section 4. Section 77-2302, R.C.M. 1947, is amended to read as follows:

"77-2302. Definitions. As used in this chapter, the term ~~"civil defense"~~ means ~~the preparation for and the carrying out of emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by enemy attack, sabotage, or other hostile action, and catastrophes of all types which shall endanger any community in the state, or the lives or property of the inhabitants thereof, including storms, floods, explosions, earthquakes, epidemics, and fires. These functions include fire fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons of defense, evacuation of persons from stricken areas, emergency welfare services (civilian war aid), emergency transportation, plant protection, temporary restoration of public utility services, and other functions related to civilian protection. The term "political subdivisions" means the counties, cities, towns and villages in this state, the following definitions apply:~~

(1) "Civil defense" means the nuclear preparedness functions and responsibilities of disaster and emergency

services.

(2) "Department" means the department of military affairs.

(3) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides, mudslides, volcanic action, fires, explosions, or air or water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, or accidents involving radiation byproducts or other hazardous materials.

(4) "Disaster and emergency services" means the prevention of, the preparation for, and the carrying out of disaster and emergency functions and responsibilities, other than those for which military forces or other state or federal agencies are primarily responsible, to prevent, prepare for, respond to, and recover from injury and damage resulting from emergencies or disasters.

(5) "Division" means the division of disaster and emergency services of the department of military affairs.

(6) "Emergency" means the imminent threat of a disaster causing immediate peril to life or property which

timely action can avert or minimize.

(7) "Political subdivision" means any county, city, town, or other legally constituted unit of local government in this state.

(8) "Principal executive officer" means the mayor, chairman of the county commissioners, or other chief executive officer of a political subdivision.

(9) "Search and rescue" means the employment, coordination, and utilization of available resources and personnel in locating, relieving distress of, preserving life of, or removing survivors from the site of a hazard, emergency, or disaster to a place of safety in case of lost, stranded, entrapped, or injured persons.

(10) "Temporary housing" means unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings."

Section 5. Section 77-2303, R.C.M. 1947, is amended to read as follows:

"77-2303. Responsibility for ~~civil defense disaster and emergency services.~~ (a) The department of military affairs, through the division of disaster and emergency services, is responsible to the governor for carrying out the planning and program for ~~civil defense disaster and emergency services~~ of this state. The department shall coordinate the activities of all organizations for civil

~~defense within the state, and maintain liaisons with and cooperate with civil defense agencies and organizations of other states, of the federal government, and Canada, and have any additional authority, duties, and responsibilities authorized by this chapter as may be prescribed by the governor.~~

~~(b) In providing assistance under this chapter, state agencies shall cooperate to the fullest extent possible with each other and with local governments, relief agencies, and the American National Red Cross, but nothing contained in this chapter limits or in any way affects the responsibilities of the American National Red Cross under the act approved January 5, 1945 (22 Stat. 555), as amended."~~

Section 6. Section 77-2304, R.C.M. 1947, is amended to read as follows:

"77-2304. ~~Civil defense duties~~ Duties of the governor. (1) The governor is responsible for carrying out this chapter. ~~The governor shall utilize the services and facilities of the existing officers and agencies of the state, and all officers and agencies shall cooperate with and extend their services and facilities to the governor as he may request in the carrying out of the purposes of this chapter.~~

~~(2) (a) A state of emergency shall be declared by~~

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

[illegible]

~~emergency or disaster;~~

~~(d) direct and compel the evacuation of all or part of the population from an emergency or disaster area within the state if he considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery;~~

~~(e) prescribe routes, modes of transportation, and destinations in connection with relocation;~~

~~(f) control ingress and egress to and from an emergency or disaster area, the movement of persons within the area, and the occupancy of premises therein;~~

~~(g) suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, combustibles, or other materials determined to be detrimental;~~

~~(h) make provision for the availability and use of temporary housing; and~~

~~(i) utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the emergency or disaster;~~

(2) IN ADDITION TO ANY OTHER POWERS CONFERRED UPON THE GOVERNOR BY LAW, HE MAY:

(A) SUSPEND THE PROVISIONS OF ANY REGULATORY STATUTE PRESCRIBING THE PROCEDURES FOR CONDUCT OF STATE BUSINESS OR ORDERS OR RULES OF ANY STATE AGENCY, IF THE STRICT

COMPLIANCE WITH THE PROVISIONS OF ANY STATUTE, ORDER, OR RULE WOULD IN ANY WAY PREVENT, HINDER, OR DELAY NECESSARY ACTION IN COPING WITH THE EMERGENCY OR DISASTER;

(B) DIRECT AND COMPEL THE EVACUATION OF ALL OR PART OF THE POPULATION FROM AN EMERGENCY OR DISASTER AREA WITHIN THE STATE IF HE CONSIDERS THIS ACTION NECESSARY FOR THE PRESERVATION OF LIFE OR OTHER DISASTER MITIGATION, RESPONSE, OR RECOVERY;

(C) CONTROL INGRESS AND EGRESS TO AND FROM AN EMERGENCY OR DISASTER AREA, THE MOVEMENT OF PERSONS WITHIN THE AREA, AND THE OCCUPANCY OF PREMISES THEREIN.

(2)(3) UNDER THIS SECTION, THE GOVERNOR MAY ISSUE EXECUTIVE ORDERS, PROCLAMATIONS AND REGULATIONS, AND AMEND AND RESCIND THEM. ALL EXECUTIVE ORDERS OR PROCLAMATIONS DECLARING OR TERMINATING A STATE OF EMERGENCY OR DISASTER SHALL INDICATE THE NATURE OF THE EMERGENCY OR DISASTER, THE AREA THREATENED, THE CONDITIONS WHICH HAVE BROUGHT ABOUT THE DECLARATION OR WHICH MAKE POSSIBLE TERMINATION OF THE STATE OF EMERGENCY OR DISASTER.

(2)(4) (A) A STATE OF EMERGENCY MAY BE DECLARED BY THE GOVERNOR WHEN HE DETERMINES THAT AN EMERGENCY, AS DEFINED IN SECTION 77-2302(6), R.C.M., 1947, EXISTS.

(B) AN EXECUTIVE ORDER OR PROCLAMATION OF A STATE OF EMERGENCY SHALL ACTIVATE THE EMERGENCY RESPONSE AND DISASTER PREPARATION ASPECTS OF THE STATE DISASTER AND EMERGENCY PLAN

AND PROGRAM APPLICABLE TO THE POLITICAL SUBDIVISION OR AREA AND BE AUTHORITY FOR THE DEPLOYMENT AND USE OF ANY FORCES TO WHICH THE PLANS APPLY AND FOR THE DISTRIBUTION AND USE OF ANY SUPPLIES, EQUIPMENT, AND MATERIALS AND FACILITIES ASSEMBLED, STOCKPILED, OR ARRANGED TO BE MADE AVAILABLE PURSUANT TO THIS CHAPTER OR ANY OTHER PROVISION OF LAW PERTAINING TO DISASTERS AND DISASTER RELATED EMERGENCIES.

(C) A STATE OF EMERGENCY MAY NOT CONTINUE FOR LONGER THAN 20 DAYS UNLESS CONTINUING CONDITIONS OF THE STATE OF EMERGENCY EXISTS, WHICH SHALL BE DETERMINED BY A DECLARATION BY THE PRESIDENT OF THE UNITED STATES OF AN EMERGENCY, OR BY A DECLARATION OF THE LEGISLATURE BY JOINT RESOLUTION OF CONTINUING CONDITIONS OF THE STATE OF EMERGENCY.

~~(4)(5)~~ (A) A STATE OF DISASTER MAY BE DECLARED BY THE GOVERNOR WHEN HE DETERMINED THAT A DISASTER HAS OCCURRED.

(B) AN EXECUTIVE ORDER OR PROCLAMATION OF A STATE OF DISASTER SHALL ACTIVATE THE DISASTER RESPONSE AND RECOVERY ASPECTS OF THE STATE DISASTER AND EMERGENCY PLAN AND PROGRAM APPLICABLE TO THE POLITICAL SUBDIVISION OR AREA AND BE AUTHORITY FOR THE DEPLOYMENT AND USE OF ANY FORCES TO WHICH THE PLANS APPLY AND FOR THE DISTRIBUTION AND USE OF ANY SUPPLIES, EQUIPMENT, AND MATERIALS AND FACILITIES ASSEMBLED, STOCKPILED, OR ARRANGED TO BE MADE AVAILABLE PURSUANT TO THIS CHAPTER OR ANY OTHER PROVISION OF LAW PERTAINING TO DISASTER AND DISASTER RELATED EMERGENCIES.

(C) A STATE OF DISASTER MAY NOT CONTINUE FOR LONGER THAN 30 DAYS UNLESS CONTINUING CONDITIONS OF THE STATE OF DISASTER EXIST, WHICH SHALL BE DETERMINED BY A DECLARATION BY THE PRESIDENT OF THE UNITED STATES OF A MAJOR DISASTER, OR BY THE DECLARATION OF THE LEGISLATURE BY JOINT RESOLUTION OF CONTINUING CONDITIONS OF THE STATE OF DISASTER.

~~(5)(6)~~ THE GOVERNOR SHALL TERMINATE A STATE OF EMERGENCY OR DISASTER WHEN:

(A) THE EMERGENCY OR DISASTER HAS PASSED;

(B) THE EMERGENCY OR DISASTER HAS BEEN DEALT WITH TO THE EXTENT THAT EMERGENCY OR DISASTER CONDITIONS NO LONGER EXIST; OR

(C) AT ANY TIME THE LEGISLATURE TERMINATES THE STATE OF EMERGENCY OR DISASTER BY JOINT RESOLUTION. HOWEVER, AFTER TERMINATION OF THE STATE OF EMERGENCY OR DISASTER, DISASTER AND EMERGENCY SERVICES REQUIRED AS A RESULT OF THE EMERGENCY OR DISASTER MAY CONTINUE.

~~(6)(7)~~ AN EXECUTIVE ORDER OR PROCLAMATION ISSUED UNDER THIS SECTION SHALL BE DISSEMINATED PROMPTLY BY MEANS CALCULATED TO BRING ITS CONTENTS TO THE ATTENTION OF THE GENERAL PUBLIC, UNLESS THE CIRCUMSTANCES ATTENDANT UPON THE EMERGENCY OR DISASTER PREVENT OR IMPEDE IT, THE EXECUTIVE ORDER OR PROCLAMATION WILL BE FILED PROMPTLY WITH THE DIVISION, THE SECRETARY OF STATE, AND CLERKS AND RECORDERS OF THE COUNTIES INVOLVED.

~~47-(8) DURING A STATE OF EMERGENCY OR DISASTER, THE GOVERNOR IS COMMANDER-IN-CHIEF OF THE MILITIA AND OF ALL OTHER FORCES AVAILABLE FOR EMERGENCY OR DISASTER DUTY. TO THE GREATEST EXTENT POSSIBLE, THE GOVERNOR SHALL DELEGATE OR ASSIGN COMMAND AUTHORITY BY PRIOR ARRANGEMENT EMBODIED IN THE STATE DISASTER AND EMERGENCY PLAN AND PROGRAM AND APPROPRIATE EXECUTIVE ORDERS.~~

~~48-(9) THE GOVERNOR SHALL UTILIZE THE SERVICES AND FACILITIES OF THE EXISTING OFFICERS AND AGENCIES OF THE STATE, AND ALL OFFICERS AND AGENCIES SHALL COOPERATE WITH AND EXTEND THEIR SERVICES AND FACILITIES TO THE GOVERNOR AS HE MAY REQUEST IN THE CARRYING OUT OF THE PURPOSES OF THIS CHAPTER."~~

Section 7. There is a new R.C.M. section that reads as follows:

Division of disaster and emergency services. (1) A division of disaster and emergency services is established in the department of military affairs. The division shall have an administrator and other professional, technical, secretarial, and clerical employees as necessary for the performance of its functions.

(2) The division shall prepare and maintain a comprehensive plan and program for disaster and emergency services of this state. The plan and program shall be coordinated with the disaster and emergency plans and

programs of the federal government, other states, political subdivisions, and Canada to the fullest extent possible. The state disaster and emergency plan and program may provide for:

(a) prevention and minimization of injury and damage caused by disaster;

(b) prompt and efficient response to an emergency or disaster;

(c) emergency relief;

(d) identification of areas particularly vulnerable to disasters;

(e) recommendations for preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

(f) organization of manpower and chains of command;

(g) coordination of federal, state, and local disaster and emergency activities; and

(h) other necessary matters.

(3) In preparing and maintaining the state disaster and emergency plan and program, the division shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations, and community leaders. In advising local and interjurisdictional agencies, the division shall encourage them to seek advice from these sources.

1 (4) The division shall:

2 (a) coordinate the preparation of the plan and program
3 for disaster and emergency services with the political
4 subdivisions of this state;

5 (b) coordinate disaster and emergency prevention and
6 preparation activities of all departments, agencies, and
7 organizations within the state;

8 (c) advise and assist the political subdivisions of
9 this state in executing their disaster and emergency
10 services responsibilities;

11 (d) make recommendations on the formation of
12 interjurisdictional disaster and emergency services areas
13 when individual political subdivisions are unable to fully
14 and adequately mount an effective local program due to
15 limitations of funding, manpower, or other reasons;

16 (e) make surveys of industries, resources, and
17 facilities within the state, both public and private, as are
18 necessary to carry out the purposes of this chapter;

19 (f) periodically review local and interjurisdictional
20 plans and programs for disaster and emergency services;

21 (g) develop or assist in the development of mutual aid
22 plans and agreements between the federal government, other
23 states, and Canada and among the political subdivisions of
24 this state;

25 (h) determine the requirements of the state and its

1 political subdivisions for food, clothing, and other
2 necessities in the event of an emergency or disaster;

3 (i) plan for the procurement of food, clothing, other
4 necessities, supplies, medicines, materials, and equipment
5 that may be necessary in the event of an emergency or
6 disaster and, as funding is authorized, procure and
7 pre-position the same;

8 (j) plan and make arrangements for the availability
9 and use of any private facilities, services, and property
10 and, if necessary and if in fact used, provide for payment
11 for use under terms and conditions agreed upon;

12 (k) institute training and public information programs
13 and take all other preparatory steps, including the partial
14 or full mobilization of disaster and emergency services
15 organizations in advance of actual emergency or disaster, to
16 insure the availability of adequately trained and equipped
17 personnel in time of emergency or disaster;

18 (l) direct emergency response and disaster preparation
19 activities as authorized by the governor;

20 (m) direct disaster response and recovery activities
21 as authorized by the governor;

22 (n) prepare, for issuance by the governor, executive
23 orders or proclamations as necessary or appropriate in
24 coping with emergencies and disasters;

25 (o) maintain liaison with and cooperate with disaster

1 and emergency services agencies and organizations of the
2 federal government, other states, and Canada in achieving
3 any purpose of this chapter and in implementing programs for
4 disaster prevention, preparation, response, and recovery;
5 and

6 (p) have any additional authority, duties, and
7 responsibilities authorized by this act as may be prescribed
8 by the governor.

9 (5) In providing assistance under this act, state
10 departments and agencies shall cooperate to the fullest
11 extent possible with each other and with local governments
12 and relief agencies such as the American national red cross,
13 but nothing contained in this chapter lists or in any way
14 affects the responsibilities of the American national red
15 cross under the act approved January 5, 1905 (33 Stat. 559),
16 as amended.

17 Section 8. There is a new B.C.M. section that reads as
18 follows:

19 Local and interjurisdictional emergency and disaster
20 agencies and services. (1) Each political subdivision within
21 this state shall designate a local or interjurisdictional
22 agency responsible for emergency and disaster prevention and
23 preparedness and coordination of response and recovery.

24 (2) The local or interjurisdictional disaster and
25 emergency services agency shall receive assistance from the

1 division in emergency and disaster prevention, preparedness,
2 response, and recovery to the extent of the division's
3 authority and responsibility.

4 (3) Each political subdivision shall adhere to the
5 provisions of this act and the state disaster and emergency
6 plan and program regarding the structure and
7 responsibilities of the local or interjurisdictional
8 disaster and emergency service agencies and their
9 relationship to the division.

10 (4) The principal executive officer of each political
11 subdivision shall notify the division of the manner by which
12 the political subdivision is providing or securing emergency
13 and disaster planning and services, identify the person who
14 heads the agency from which planning and services are
15 obtained, and furnish additional information as the division
16 requires.

17 (5) Each local and interjurisdictional agency shall
18 prepare and keep current a local or interjurisdictional
19 disaster and emergency plan and program covering the area
20 for which that agency is responsible. This plan shall be in
21 accordance with and in support of the state disaster and
22 emergency plan and program.

23 (6) The local or interjurisdictional agency shall
24 prepare and distribute on behalf of the principal executive
25 officers, in written form, a clear and complete statement of

the emergency responsibilities of all local agencies and officials and of the disaster and emergency chain of command.

Section 9. There is a new R.C.M. section that reads as follows:

Local emergency or disaster. (1) A local emergency proclamation or disaster declaration may be issued only by the principal executive officer of a political subdivision.

(2) An emergency proclamation may be issued by order or resolution whenever the principal executive officer determines there is an emergency.

(a) An emergency proclamation may not continue for longer than 10 days except by consent of the governing body of the political subdivision.

(b) An emergency proclamation may terminate with a disaster declaration or when the principal executive officer determines that the emergency no longer exists.

(3) A disaster declaration may be issued by order or resolution whenever the principal executive officer determines a disaster is occurring or has occurred.

(a) A disaster declaration may not continue for longer than 30 days except by consent of the governing body of the political subdivision.

(b) A disaster declaration may be terminated when the principal executive officer determines that the disaster

conditions no longer exist.

(4) An order or resolution declaring or terminating a state of emergency or disaster shall indicate the nature of the emergency or disaster, the area threatened, the conditions which have brought about the proclamation or declaration or which make possible termination of the state of emergency or disaster. Such orders or resolutions shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be filed promptly with the division, the local or interjurisdictional agency, and the agency charged with recording the official records of the political subdivision.

(5) The effect of an emergency proclamation or a disaster declaration is to activate applicable parts of the local or interjurisdictional disaster and emergency plan and program and to authorize the furnishing of aid and assistance in accordance with such plans and programs.

Section 10. Section 77-2306, R.C.M. 1947, is amended to read as follows:

"77-2306. ~~Mutual aid~~ Mutual aid arrangements. (1) ~~The director of each local organization of civil defense may develop or cause to be developed~~ Political subdivisions shall be encouraged and assisted by the division to conclude ~~mutual aid~~ mutual aid arrangements, with other public and private agencies within this state for reciprocal civil

~~defense aid and assistance in case of disaster too great to be dealt with unassisted coping with emergencies and disasters. These arrangements shall be consistent with the state civil defense plan and program, and in time of emergency each local organization for civil defense shall render assistance in accordance with the provisions of the mutual aid arrangements.~~

(2) In reviewing disaster and emergency plans and programs of political subdivisions, the division shall consider whether they contain adequate provisions for the reciprocal mutual aid.

~~(2)(3) The director of each local organization for civil defense local and interjurisdictional disaster and emergency agencies may assist in negotiation of reciprocal mutual aid mutual aid agreements between the governor and the adjoining states (including foreign states or provinces) or political subdivisions thereof, and shall carry out arrangements or of any such agreements or any such agreement relating to the local and political subdivision."~~

Section 11. There is a new B.C.M. section that reads as follows:

Intergovernmental arrangements. (1) This state enacts into law and enters into the interstate civil defense and disaster compact with all states, as defined therein, which states have enacted or shall hereafter enact the compact in

the form substantially contained in 77-1403.

(2) The governor may enter into the compact with any state that does not border this state if he finds that joint action with the state is desirable in meeting common intergovernmental problems of emergency and disaster planning, prevention, response, and recovery.

(3) Nothing in subsections (1) and (2) may be construed to limit previous or future entry of this state into the interstate civil defense and disaster compact.

(4) All interstate civil defense and disaster compacts and other interstate agreements dealing with disaster and emergency services shall be reviewed and made current at intervals not to exceed 4 years.

(5) If a person holds a license, certificate, or other permit issued by any state or political subdivision thereof evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving that skill in this state to meet an emergency or disaster and this state shall give due recognition to the license, certificate, or other permit.

(6) When considered of mutual benefit, the governor may, subject to limitations of law, enter into intergovernmental arrangements with neighboring provinces of Canada for the purpose of exchanging disaster and emergency services.

Section 12. There is a new R.C.M. section that reads as follows:

Communications. (1) The division shall coordinate whatever means exist for rapid and efficient communications in time of emergency or disaster.

(2) The division shall, in cooperation with the division of communications, department of administration, consider the desirability of supplementing communications resources or of integrating them into a comprehensive state or state-federal telecommunications or other communications system or network.

(3) The division shall, in cooperation with the division of communications and local political subdivisions, evaluate the possibility of multipurpose use of communications systems or networks for general state and local governmental purposes.

(4) The division shall assist political subdivisions in the orderly development of telecommunications systems complementary to the state telecommunications system or network.

Section 13. Section 77-2309, R.C.M. 1947, is amended to read as follows:

"77-2309. Authority to accept services, gifts, grants, and loans. Whenever the federal government or any agency or officer thereof, or any person, firm, or corporation shall

offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of ~~civil-defense~~ emergency or disaster services, the state, acting through the governor, or the political subdivision, acting through its executive officer or governing body, may accept the offer and upon the acceptance the governor of the state or executive officer or governing body of the political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive the services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer and the rules ~~and regulations~~, if any, of the agency making the offer."

Section 14. Section 77-2310, R.C.M. 1947, is amended to read as follows:

"77-2310. Political activity prohibited. An organization for ~~civil-defense~~ disaster and emergency services established under this chapter may not participate in any form of political activity, nor may it be employed directly or indirectly for political purposes."

Section 15. Section 77-2311, R.C.M. 1947, is amended to read as follows:

"77-2311. ~~Civil-defense~~ Disaster and emergency

1 ~~services~~ personnel. A person may not be employed or
 2 ~~associated in any capacity~~ in any civil defense ~~disaster and~~
 3 ~~emergency services~~ organization established under this
 4 chapter who advocates a change by force or violence in the
 5 constitutional form of the government of the United States
 6 or in this state or the overthrow of any government in the
 7 United States by force or violence, or who has been
 8 convicted of or is under indictment or information charging
 9 any subversive act against the United States. Each person
 10 who is appointed to serve in an organization for ~~civil~~
 11 ~~defense disaster and emergency services~~ shall, before
 12 entering upon his duties, take an oath, in writing, before a
 13 person authorized to administer oaths in this state, which
 14 oath shall be substantially as follows:

15 "I, ~~do solemnly~~ swear (or affirm) that I will
 16 support and defend ~~the~~ The Constitution of the United States
 17 and ~~the~~ The Constitution of the State of Montana, against
 18 all enemies, foreign and domestic; that I will bear true
 19 faith and allegiance to the same; that I take this
 20 obligation freely, without any mental reservation or purpose
 21 of evasion; and that I will well and faithfully discharge
 22 the duties of the office upon on which I am about to enter.
 23 ~~And I do further swear (or affirm) that I do not advocate~~
 24 ~~nor am I a member of any political party or organization~~
 25 ~~that advocates the overthrow of the government of the United~~

1 ~~states or of this state by force or violence; and that~~
 2 ~~during such time as I as a member of the Montana civil~~
 3 ~~defense agency I will not advocate nor become a member of~~
 4 ~~any political party or organization that advocates the~~
 5 ~~overthrow of the government of the United States or of this~~
 6 ~~state by force or violence. So help me, God."~~

7 Section 16. There is a new R.C.M. section that reads
 8 as follows:

9 Temporary housing for disaster victims -- site
 10 acquisition and preparation. (1) Whenever the governor has
 11 declared a state of emergency or state of disaster or the
 12 president has declared an emergency or a major disaster to
 13 exist in this state, the governor is authorized:

14 (a) to enter into purchase, lease, or other
 15 arrangements with any agency of the United States for
 16 temporary housing units to be occupied by emergency or
 17 disaster victims and to make such units available to any
 18 political subdivision of the state;

19 (b) to assist any political subdivision of this state
 20 which is the locus of temporary housing for emergency or
 21 disaster victims to acquire sites necessary for such
 22 temporary housing and to do all things required to prepare
 23 such site to receive and utilize temporary housing units by:

24 (i) advancing or lending funds available to the
 25 governor from any appropriation made FOR THOSE PURPOSES by

the legislature or from any other source;

(ii) "passing through" funds made available ~~FOR THOSE~~
~~PURPOSES~~ by any agency, public or private; or

(iii) becoming a copartner with the political
subdivision for the execution and performance of any
temporary housing project for emergency or disaster victims;
~~and for such purposes to pledge the credit of the state on~~
~~such terms as he considers appropriate, having due regard~~
~~for current debt transactions of the state;~~

(c) under such regulations as he shall prescribe, to
temporarily suspend or modify for not to exceed 60 days any
public health, safety, zoning, OR transportation (within or
across the state), ~~or other requirement of law LAWS~~ or
~~regulation REGULATIONS~~ within this state when by
proclamation he declares such suspension or modification
essential to provide temporary housing for emergency or
disaster victims.

(2) Any political subdivision of this state is
expressly authorized to acquire, temporarily or permanently,
by purchase, lease, or otherwise, sites required for
installation of temporary housing units for emergency or
disaster victims and to enter into whatever arrangements,
including purchase of temporary housing units and payment of
transportation charges, which are necessary to prepare or
equip such sites to utilize the housing units.

(3) Nothing contained in this chapter shall be
construed to limit the governor's authority to apply for,
administer, and expend any grants, gifts, or payments in aid
of emergency or disaster prevention, preparedness, response,
or recovery.

Section 17. There is a new R.C.M. section that reads
as follows:

Community disaster loans. Whenever, at the request of
the governor, the president has declared a major disaster to
exist in this state, the governor is authorized:

(1) upon his determination that a political
subdivision of the state will suffer a substantial loss of
tax and other revenues from an emergency or disaster and has
demonstrated a need for financial assistance to perform its
governmental functions, to apply to the federal government,
on behalf of the political subdivision, for a loan and to
receive and disburse the proceeds of any approved loan to
any applicant political subdivision;

(2) to determine the amount needed by any applicant
political subdivision to restore or resume its governmental
functions and to certify the same to the federal government.
However, no application amount may exceed 25% of the annual
operating budget of the applicant for the fiscal year in
which the emergency or disaster occurs.

(3) to recommend to the federal government, based upon

1 his review, the cancellation of all or any part of repayment
 2 when, in the first 3 full fiscal years following the
 3 emergency or disaster, the revenues of the political
 4 subdivision are insufficient to meet its operating expenses,
 5 including additional emergency- or disaster-related expenses
 6 of a political subdivision operation character.

7 Section 18. There is a new R.C.M. section that reads
 8 as follows:

9 Debris and wreckage removal in emergencies or
 10 disasters. (1) Whenever the governor has declared a state of
 11 emergency or state of disaster to exist under the laws of
 12 this state or the president, at the request of the governor,
 13 has declared a major disaster or emergency to exist in this
 14 state, the governor is authorized:

15 (a) notwithstanding any other provision of law,
 16 through the use of state departments or agencies or the use
 17 of any of the state's instrumentalities, to clear or remove,
 18 from publicly or privately owned land or water, debris and
 19 wreckage which may threaten public health or safety or
 20 public or private property in any state of emergency or
 21 state of disaster declared by the governor or major disaster
 22 as declared by the president;

23 (b) to accept funds from the federal government and
 24 utilize such funds to make grants to any political
 25 subdivision for the purpose of removing debris or wreckage

1 from publicly or privately owned land or water.

2 (2) (a) Authority under this section shall not be
 3 exercised unless the affected political subdivision,
 4 corporation, organization, or individual shall first present
 5 an unconditional authorization for removal of such debris or
 6 wreckage from public and private property and, in the case
 7 of removal of debris or wreckage from private property,
 8 shall first agree to indemnify the state government against
 9 any claim arising from such removal.

10 (b) Whenever the governor provides for clearance of
 11 debris or wreckage pursuant to subsection (1) (a) or (1) (b),
 12 employees of the designated state agencies or individuals
 13 appointed by the state are authorized to enter upon private
 14 land or waters and perform any tasks necessary to the
 15 removal or clearance operation.

16 Section 19. There is a new R.C.M. section that reads
 17 as follows:

18 Identification. Disaster and emergency services
 19 organizations and personnel may continue to identify
 20 themselves by the use of the civil defense symbol.

21 Section 20. Severability. If a part of this act is
 22 invalid, all valid parts that are severable from the invalid
 23 part remain in effect. If a part of this act is invalid in
 24 one or more of its applications, the part remains in effect
 25 in all valid applications that are severable from the

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1 invalid applications.

2 Section 21. Repealer. Sections 77-2305, AND 77-2307,
3 ~~and 77-2308~~, R.C.M. 1947, are repealed.

4 Section 22. Effective date. This act is effective on
5 its passage and approval.

-End-